

ASHBY & GEDDES
ATTORNEYS AND COUNSELLORS AT LAW
500 DELAWARE AVENUE
P. O. BOX 1150
WILMINGTON, DELAWARE 19899

TELEPHONE
302-654-1888
FACSIMILE
302-654-2067

February 1, 2021

BY ECF FILING

The Honorable Richard G. Andrews
United States District Court
J. Caleb Boggs Federal Building
Wilmington, DE 19801-3555

Re: *First Quality Tissue, LLC (“First Quality”) v. Irving Consumer Products, et al., (“Irving”)*, Civil Action No. 1:19-cv-00428-RGA

Dear Judge Andrews:

Irving respectfully objects to First Quality’s submission of two newly created declarations in response to the Court’s January 28, 2021 Oral Order that First Quality identify existing documentation responsive to specific questions posed by the Court. *See* D.I. 188. Although Irving has not seen the documents submitted for *in camera* review, First Quality’s submission of the newly created declarations suggests to Irving that the documentation the Court requested does not exist—just as Irving learned from First Quality during the January 25, 2021 teleconference that no 2013 Malburg-First Quality agreement exists.

Irving notes that this is now the third time that First Quality has prepared and submitted new “evidence” for the Special Master or this Court in connection with the parties’ privilege dispute that went beyond the bounds of the specific requests posed to First Quality. First Quality had a full and fair opportunity to submit any evidence on which it wished to rely during the two opportunities that the Special Master afforded the parties to brief the privilege dispute, and in its written objection to the Special Master’s decision. Irving respectfully submits that First Quality should have submitted any evidence on which it wished to rely in connection with that briefing.

Respectfully,

/s/ John G. Day

John G. Day (#2403)

JGD/nml

cc: All Counsel of Record (via electronic mail)